



IDAHO WATER RESOURCE BOARD

MINUTES OF STATE WATER PLAN SUB-COMMITTEE MEETING

C. L. "Butch" Otter
Governor

Idaho Department of Water Resources
Idaho Water Center, Boise, Idaho
February 5, 2008

Jerry R. Rigby
Chairman
Rexburg
At Large

Terry T. Uhling
Vice Chairman
Boise
District 2

Bob Graham
Secretary
Bonners Ferry
At Large

**Charles "Chuck"
Cuddy**
Orofino
District 1

Leonard Beck
Burley
District 3

L. Claude Storer
Idaho Falls
District 4

**Gary M.
Chamberlain**
Challis
At Large

**Lawrence "Vic"
Armacost**
New Meadows
At Large

The Chairman of the committee, Gary Chamberlain, called the meeting to order at 9:00 a.m. Vic Armacost and Leonard Beck were also present.

Staff members present were Brian Patton, Bureau Chief of Planning; Helen Harrington, Planning Section Manager, Sandra Thiel, Planner, Neeley Miller, Planner and Patsy McGourty, Recording Secretary.

Guests in attendance were:

Jim Tucker, Idaho Power Co.	Kevin Lewis, Idaho Rivers United
Shelley Davis, Barker Rosholt	Claudia Haynes
Peter Anderson, Trout Unlimited	

Agenda Item No. 1, Review of Policies (continued)

The committee started at Section 5A – Swan Falls Agreement – a copy of the Swan Falls Agreement was handed out.

The committee discussed the policy. Mr. Jim Tucker of Idaho Power discussed growing needs for power generation caused by increased population, air conditioning and irrigation in the summer. The biggest need in larger cities is for air conditioning while outlying areas still use most of their power for irrigation according to Mr. Beck.

There was discussion about minimum flows on the Snake River. At the time of the Swan Falls Agreement federal, state and private entities all agreed to the minimum flows outlined in the document.

Committee members discussed clarifying the policy by denoting exactly where on the Snake River the Swan Falls Agreement applied. Then they discussed the Nez Perce Agreement that also impacts the Snake River. There are overlaps and similarities. Ms. Harrington asked them to consider the possibility of revising the way basins and agreements are organized in the

Plan. Mr. Armacost suggested a section for the Nez Perce Agreement since it affects water rental.

Chairman Chamberlain read from the Swan Falls agreement regarding Policy 32 and the minimum flow at Murphy. They discussed the history of this agreement. It was noted that the minimum flow at Murphy has been breached once since 1985 and curtailment letters have gone out 2-3 times. There was discussion about including both agreements under the title Water Management. The committee decided that staff would draft a new policy based on the topic Water Management listing both the Nez Perce and Swan Falls Agreements in the comments.

5B – Snake River Minimum Flows – the committee questioned whether this section needed to be included. They discussed the differences between daily flows and average daily flows. They noted that the Swan Falls Agreement uses the terms average daily flows in the water rights language. The department uses average and Idaho Power uses instantaneous. Steve Burrell from the department's Technical Services Bureau was asked to join the meeting to explain these terms to the committee and answer questions.

The committee questioned having Lime Point in the policy since changes are being discussed about that minimum flow by the Board. Mr. Patton stated that the Attorney General's Office will soon provide a legal opinion to the Board regarding Lime Point and water right 3-2. There was discussion about why the Weiser minimum flows were in the policy when the department has many other minimum stream flows.

The committee then discussed why the minimum flow is zero at Milner Dam. Mr. Tucker provided some historical details about water flows through the power plant at Milner Dam. He stated the minimum flow was set by the FERC agreement for fish and wildlife. Idaho Power Company is concerned about their ability to maintain the 200 cfs minimum flow. The Bureau of Reclamation has to augment to keep this flow in the river and eventually it goes dry every year in the late fall thus the zero flow minimum. The committee discussed various solutions including building storage to keep water in the Snake River at Milner. Chairman Chamberlain noted that it is up to the legislature to fund programs like that. There is no water in the rental pool for this purpose. Water must be bought or stored. The Board does not have the authorization to convert water rights from consumptive to non-consumptive uses.

The committee then discussed target flows at Milner mentioned in the comments. There was more discussion about the FERC relicensing of Hells Canyon and the target flows mentioned in that agreement. Mr. Tucker provided further information about the history and the needs of Idaho Power. Ms. Harrington noted that the Hells Canyon relicensing process is going on right now and the department is represented by Ms. Harriet Hensley, Deputy Attorney General. There was further discussion on the comments section in 5B.

5C – Snake River Trust Water – the committee discussed this issue in regard to the Swan Falls Agreement. It was noted that the Snake River Basin Adjudication was born of the Swan Falls Agreement. After that process took place, there were better estimates of the amount of actual trust water. Mr. Tucker noted that there is litigation pending currently where Idaho Power asserts there is no trust water left. Committee members expressed concern about this policy needing an Attorney General review. Ms. Harrington informed the committee that after the plan is drafted it would be

reviewed by Attorney General Staff. If the committee members have specific questions they would like to ask the legal staff, she would be happy to relay that information.

At this time Chairman Chamberlain stated that he would like Clive Strong or Phil Rassier from the Attorney General's Office to address the Board at the next work session about the impact of the Swan Falls Agreement and pending litigation on proposed new Board policies. He wanted to avoid wasting the committee's time when the whole Board would need this information to support the new policies. Staff agreed to set this up.

5D – Snake River Basin DCMI – the committee discussed the trust water issue further. Nothing was decided.

5E – Snake River Basin Agriculture – the history of the changes in agriculture were discussed with Mr. Tucker providing more input. It was noted that the Eastern Snake Plain Aquifer Comprehensive Aquifer Management Plan (CAMP) process will be defining how much water is available for agricultural use through the use of the model. Nothing further was decided.

5F – Snake River Navigation – the committee noted that this issue needs to be revisited after the Lime Point legal opinion is digested.

5G – Snake River Basin Springs – this policy involves issues currently before Judge Schroeder in administrative hearings on water calls before the department. These are contested issues that need further explanation to the full Board before policies can be drafted.

The committee took a lunch break.

5H – Snake River Basin New Storage – this section was also written in connection to the Swan Falls Agreement. The committee questioned whether these policies are needed since the Swan Falls Agreement outlines everything. The committee asked staff to reference this topic in the Water Management Section under the Swan Falls Agreement.

5J – Water Acquisition – there was discussion about protecting the state's water for all citizens. It was suggested that this policy should be disconnected from the Snake River discussion and become a general policy in the management section. Staff will rewrite. There was discussion about the comments which were written prior to the Bell Rapids Acquisition. Several changes were made to the comment section.

On the topic of flood control and space at Brownlee Dam there was discussion about dealing with this topic at the CAMP process. A separate policy was suggested that should be discussed with Idaho Power and the Corp of Engineers.

Agenda Item No. 2. Future Meeting Schedule

The next meeting is set for February 20th at 9:00 a.m. in Boise. A State Water Plan Subcommittee meeting was set for March 14th at 1:00 p.m. in Boise.

Agenda Item No. 3, Assignments/Actions

Staff will prepare a new version and post on the website. Mr. Anderson will give the committee an update on the Bear River Compact.

Dated this _____ day of February 2008.

Patsy McGourty
Administrative Assistant II